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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,033	10/09/2001	Thomas M. Stephany	83469PCW	5066

7590

09/21/2004

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EXAMINER
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SANTIAGO, ENRIQUE L

ART UNIT	PAPER NUMBER
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2671

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/973,033

**Applicant(s)**

STEPHANY ET AL.

**Examiner**

Enrique L Santiago

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lui et al. US patent no. 6,340,977 B1 in view of Harvil et al. US patent no. 6,559,845 B1. Lui et al. describes a method of providing user assistance in software applications using an interactive animated character. Harvill et al. describes a method of animating a three-dimensional character.

Regarding claim 1, Lui et al. describes an interactive guide character that is displayed in conjunction with an image representing an application interface; which describes the application's logic or operations (see fig 4, column 8, lines 36-42). The guide character may be displayed in conjunction with an audio file, which may create the appearance that the animated object is delivering the information (column 8, lines 36-60). The guide character may be an animated object (column 9, lines 8-15). Additionally Lui et al. teaches a visual pictorial representation of an actual object 810 (see fig. 5, column 10, lines 18-20).

Liu et al. does not explicitly disclose the specific means by which to create an animated object for this purpose. However in similar art Harvill et al. describes a method of creating an animated object with a wire frame model and a texture map (column 5, lines 38-46). Therefore it would have been obvious to those of ordinary skill in the art at the time the invention was made to use an animated object constructed as described by Harvill et al. in the system described by

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Liu et al, because it could be used to create a guide character to interactively assist a user operating an application program. The guide character could represent the source information and help functions. Said guide character would add a friendlier nature to the help experience and ease the user into the complexities of the Host Application program. Furthermore, the guide character could be an abstract representation and not required to be only a visual or animated character (see Lui et al., column 9, lines 10-12).

-Regarding claim 2, Liu et al. describes a file set that stores the information that may be conveyed by the guide character (column 17, lines 13-48).

-Regarding claim 3, Liu et al. describes the location of the guide character as overlapping portions of the host application (column 9, lines 4-10).

-Regarding claim 4, Liu et al. describes an embodiment of the system in which a user selects a symbol in the pictorial representation which symbol does not include any language, and the guide character responds to that selection (see fig. 5, column 11, lines 38-65).

### **Response to Arguments**

Applicant's arguments filed June 14, 2004 have been fully considered but they are not persuasive.

Regarding the applicants' argument that the prior art does not teach a visual pictorial representation of an actual object the examiner disagrees. Lui et al. does teach a visual pictorial representation of an actual object (see fig. 5). In figure 5, there is a visual pictorial representation of a real object (bicycle). The examiner would like to add that fig. 2 of the present application that supports the applicants' added limitation "a visual pictorial representation of an actual object" includes a bicycle and an animated agent as does Lui et al. (fig. 5).

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Regarding the applicants' argument that the prior art does not teach "non language symbols" see *Lui et al* figs. 5 and 6.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., The claimed invention includes the advantage of supporting illiterate persons and persons with impaired vision since, in the case of impaired vision, the pictorial representation may be more recognizable than sequential letters that may be seen as a "blur.") are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US patent no. 5,689,618

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Enrique L Santiago whose telephone number is 703 306-5908. The examiner can normally be reached on Monday to Friday from 7:00 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Zimmerman whose telephone number is 703 305-9798, can be reached on Monday to Friday from 7:00 A.M. to 3:30 P.M.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

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Washington, D.C. 20231

or faxed to:

703 872-9306 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA, Sixth Floor (Receptionist).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Enrique L. Santiago

September 14, 2004



MARK ZIMMERMAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600